IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

MONDAY, THE 17TH SEPTEMBER 2007 / 26TH BHADRA 1929

Crl.Rev.Pet.No. 3352 of 2007()

ST.1317/2004 of JUDL. MAGISTRATE OF FIRST CLASS-I, KOCHI

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REVN. PETITIONER: COMPLAINANT:

BOMBAY BURMAH TRADING CORPORATION LTD.
(FORMICA DIVISION), REGD. OFFICE AT 9,
WALLACE STREET, FORT MUMBAI-400001, REPRESENTED BY
THE AUTHORISED OFFICER MR.R.BALASUBRAMANIAN,
OFFICE SUPERVISOR, REGIONAL OFFICE,NEHRU TIMBER
MARKET, 282 SYDHANS ROAD,CHOOLAI, CHENNAI-600 112.

BY ADV. SRI.K.B.DAYAL
SRI.SIBI KARUN

RESPONDENTS: STATE/ACCUSED:

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1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

2. SIVA KUMAR KARTHA,
JOINT MANAGING DIRECTOR, MAP INDIA INTERIORS,
REGD. OFFICE MURALIMANDIRAM, SREE RAMAKRISHNAN
ASHRAM LANE, POOKUNNAM, THRISSUR-680 002.

BY PUBLIC PROSECUTOR SRI. K.S. SIVAKUMAR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 17/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. Ramkumar, J.

Crl.R.P. 3352 of 2007

Dated: 17th September 2007

ORDER

The revision petitioner is the complainant in S.T. 1317 of 2004 on the file of the J.f.C.M. -I, Kochi which was a prosecution under Sec. 138 of the Negotiable Instruments Act, 1881 in respect of a cheque for a sum of Rs. 65,226/-. He challenges the order dated 11-7-2007 passed by the J.F.C.M.-I, Kochi dismissing the complaint under Sec. 204 (4) Cr.P.C. on the ground that steps were not taken in spite of repeated opportunities. Since the complaint was dismissed prior to the appearance of the accused before the Court below, notice in this revision to the 2nd respondent/ complainant is dispensed with.

2. A perusal of the certified copy of the A diary maintained by the court below shows that most of the adjournments were not for failure to take steps but were suo motu. The certified copy of the proceedings paper shows further that the case had been posted to Adalath twice without realising that the accused had not entered appearance. This shows that there was a mechanical posting of the case without applying the mind at all. At any rate, in a case involving such high-stakes the Magistrate should not have dismissed the

complaint by a cryptic order as has been done. Hence, the order dated 11-7-2007 dismissing the complaint in S.T. No. 1317 of 2004 is set aside and the said complaint shall stand restored back to file.

Petitioner shall appear before the court below without any further notice on **28-09-2007** by which date she shall have remitted the process fee or produce stamped cover for the further progress of the complaint.

V. Ramkumar, Judge.

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